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ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISIONTIMOTHY BICKES and
DAVID TREPANIER,

Plaintiffs,

v.

JUDGE : Duggan, Patrick J.
DECK : S. Division Civil Deck
DATE : 04/25/2005 @ 14:21:31
CASE NUMBER : 2:05CV71614
CMP TIMOTHY BICKES VS. SPS
TECHNOLOGIES WATERFORD (SI) JMC✓ SPS TECHNOLOGIES WATERFORD
COMPANY, a Michigan Corporation, SPS
TECHNOLOGIES, INC., a Pennsylvania
Corporation, and SPS TECHNOLOGIES, LLC, a
Pennsylvania Corporation,

MAGISTRATE JUDGE MORGAN

Defendants.

MATTHEW WIGENT (P46968)
WARNICKE & WIGENT, PLLC
Attorney for Plaintiffs
1701 Cass Lake Road
Keego Harbor, MI 48320
(248) 738-5000COMPLAINT

NOW COME Plaintiffs, Timothy Bickes and David Trepanier, by and through their attorneys WARNICKE & WIGENT, PLLC, and for their Complaint states as follows:

1. This is an action to enforce rights arising out of Plaintiffs' employment relationship with Defendant SPS Technologies.
2. Plaintiff Timothy Bickes is a resident of the Township of Waterford, County of Oakland, State of Michigan.
3. Plaintiff David Trepanier is a resident of City of Flint, County of Genessee, State of Michigan.

4. Plaintiffs were employees of Defendant SPS Technologies Waterford Company, SPS Technologies, Inc. and/or SPS Technologies, LLC (hereafter "Defendants") at their facility in the County of Oakland, State of Michigan.
5. Defendant SPS Technologies Waterford Company is a Michigan Corporation doing business in the County of Oakland, State of Michigan.
6. Defendant SPS Technologies Inc., and Defendant SPS Technologies, Inc. are Pennsylvania Corporations doing business in the County of Oakland, State of Michigan.
7. The events giving rise to this cause of action occurred in the County of Oakland in the State of Michigan.
8. Jurisdiction in this matter exists due to a federal question.
9. Plaintiff Timothy Bickes has rheumatoid arthritis.
10. Plaintiff Timothy Bickes began his employment with Defendants on August 29, 1984.
11. Plaintiff David Trepanier has a serious back injury, heart condition and other disabilities covered under the Americans with Disabilities Act.
12. Plaintiff David Trepanier began his employment with Defendants on August 3, 1988.
13. Plaintiffs' employment with Defendants was terminated on or about April 29, 2004.
14. Plaintiffs, among others, were terminated on April 29, 2004 due to disabilities covered under the Americans with Disabilities Act.

COUNT I
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT
ASTO TIMOTHY BICKES

15. At all material times, Plaintiff Timothy Bickes was an employee, and Defendants were his employer, covered by and within the meaning of the Americans with Disability Act of 1990, 42 USC 12101 et seq.
16. Plaintiff's rheumatary arthritic condition constitutes a disability, as that term is defined by and within the meaning of the Americans with Disability Act of 1990, 42 USC 12101 et seq.
17. Plaintiff was discriminated against, within the meaning of the Americans with Disability Act of 1990, 42 USC 12101 et seq., when Defendants terminated him.
18. Plaintiff's disability was a determining factor in Defendants' decision to terminate Plaintiff.
19. The actions of Defendants and their agents, representatives, and employees were intentional in disregard for the rights and sensibilities of Plaintiff and warrant punitive damages.
20. As a direct and proximate result of Defendants' unlawful discrimination, Plaintiff Timothy Bickes has sustained injuries and damages, including the loss of earnings and earning capacity; loss of fringe and pension benefits; mental and emotional distress; humiliation and embarrassment; and loss of the ordinary pleasures of everyday life, including the right to seek and pursue a gainful occupation of choice.

COUNT II
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT
ASTO DAVID TREPANIER

21. At all material times, Plaintiff David Trepanier was an employee, and Defendants were his employer, covered by and within the meaning of the Americans with Disability Act of 1990, 42 USC 12101 et seq.
22. Plaintiff's back condition, heart condition and other conditions, constitute a disability, as that term is defined by and within the meaning of the Americans with Disability Act of 1990, 42 USC 12101 et seq.
23. Plaintiff was discriminated against, within the meaning of the Americans with Disability Act of 1990, 42 USC 12101 et seq., when Defendants terminated him.
24. Plaintiff's disability was a determining factor in Defendants' decision to terminate Plaintiff.
25. The actions of Defendants and their agents, representatives, and employees were intentional in disregard for the rights and sensibilities of Plaintiff and warrant punitive damages.
26. As a direct and proximate result of Defendants' unlawful discrimination, Plaintiff David Trepanier has sustained injuries and damages, including the loss of earnings and earning capacity; loss of fringe and pension benefits; mental and emotional distress; humiliation and embarrassment; and loss of the ordinary pleasures of everyday life, including the right to seek and pursue a gainful occupation of choice.

COUNT III
GENDER DISCRIMINATION IN VIOLATION OF THE
ELLIOTT-LARSEN CIVIL RIGHTS ACT

27. Plaintiff David Trepanier was an employee and Defendants were an employer, covered and within the meaning of the Michigan Elliott-Larsen Civil Rights Act, MCLA 37.2101 et seq., MSA 3.548(101) et seq.
28. Plaintiff David Trepanier is a member of a class of protected persons (i.e. overweight).
29. Plaintiff was treated in a disparate and discriminatory manner compared to other similarly situated employees.
30. Plaintiff was subject to an adverse employment action based on his weight.
31. Plaintiff's weight was a significant factor that made a difference in other terms and conditions of Plaintiffs' employment with Defendants.
32. Defendants, through its agents, representatives, and employees, was predisposed to discriminate on the basis of weight and acted in accordance with that predisposition.
33. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of earnings and earning capacity; loss of career opportunities; humiliation and embarrassment; mental and emotional distress; and loss of the ordinary pleasures of everyday life, including the right to pursue a gainful occupation of choice.

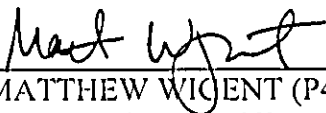
WHEREFORE Plaintiff respectfully requests that this Honorable Court enter a Judgment against Defendants for the following:

- a. Compensatory and exemplary damages in whatever amount Plaintiffs are found to be entitled,

- b. an award of back pay and the value of lost fringe benefits and pension benefits, past and future,
- c. an award of interest, costs, and reasonable attorney fees.
- d. an order placing Plaintiffs in the positions they would have held had there been no violations of their rights,
- e. an order enjoining Defendants from further acts of discrimination or retaliation, and
- f. whatever other relief appears appropriate at the time of final judgment.

Respectfully submitted,

WARNICKE & WIGENT, PLLC

By: 
MATTHEW WIGENT (P46968)
Attorneys for Plaintiff
1701 Cass Lake Road
Keego Harbor, MI 48320
(248) 738-5000

Dated: April 25, 2005

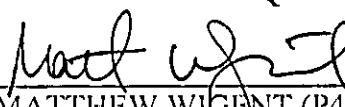
DEMAND FOR JURY TRIAL

NOW COME Plaintiffs Timothy Bickes and David Trepanier by and through their attorneys, WARNICKE & WIGENT, PLLC, and hereby demand a trial by jury of the within matters.

Respectfully submitted,

WARNICKE & WIGENT, PLLC

By:


MATTHEW WIGENT (P46968)
Attorneys for Plaintiff
1701 Cass Lake Road
Keego Harbor, MI 48320
(248) 738-5000

Dated: April 25, 2005

JS 44 11/99

CIVIL COVER SHEET

COUNTY IN WHICH THIS ACTION AROSE:

OAKLAND

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS TIMOTHY BOCKES AND
DAVID TREPANIER

DEFENDANTS **05-71614**
SPS TECHNOLOGIES WATERFORD
COMPANY, A MICHIGAN CORPORATION, ET AL

(b) County of Residence of First Listed: OAKLAND

County of Residence of First Listed OAKLAND
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorneys (Name, Address and Telephone Number)

MATTHEW WIGENT (PLUGU8)
1701 CASS LAKE ROAD
KEEGO HARBOR, MI 48320 (248) 738-5000

Attorneys (If Known)

PATRICK J. DUGGAN
MAGISTRATE JUDGE MORGAN

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 2 Incorporated or Principal of Business In This State ☐ 4 ☒ 5
- Citizen of Another ☐ 2 ☐ 2 Incorporated and Principal of Business In Another State ☐ 5 ☐ 6
- Citizen or Subject of Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Americans with Disabilities Act.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 \$ DEMAND

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

x matthew wigent

4/25/05

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes:
